

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

GLO SCIENCE, INC.,
a Delaware Corporation
10 W 37th Street, Suite 1001
New York, NY 10018

Plaintiff,

v.

NANCHANG DENTAL BRIGHT
TECHNOLOGY CO., LTD.,
a Chinese Corporation
Building 182 Jiahai Industrial Park
No. 2799 Tianxiang Boulevard, Gaoxin District
Nanchang, Jiangxi Province, China

Defendant.

Civil Action No. _____

COMPLAINT

GLO SCIENCE, INC. (hereinafter, “Plaintiff” or “GLO SCIENCE”) files this Complaint against Defendant Nanchang Dental Bright Technology Co., Ltd. (hereinafter “Defendant” or “Nanchang”), and alleges as follows:

THE PARTIES

1. GLO SCIENCE is a corporation duly incorporated in the State of Delaware having a place of business at 10 West 37th Street, Suite 1001, New York, New York 10018. GLO SCIENCE is doing business in this Judicial District.

2. GLO SCIENCE is the exclusive licensee of JBL RADICAL INNOVATIONS, LLC (“JBL”), a Delaware limited liability company having a place of business at 923 Fifth Avenue,

New York, New York 10021, for inventions covered by U.S. Patents at issue in this civil action as described in greater detail below.

3. Upon information and belief, Nanchang is a Chinese Corporation having a place of business at Building 182 Jiahai Industrial Park, No. 2799 Tianxiang Boulevard, Gaoxin District, Nanchang, Jiangxi Province, China. Attached as Exhibit 1 is an image of a business card of a of sales representative).

4. Upon information and belief, Nanchang makes, uses, offers to sell and/or sells mouthpieces which infringe certain patents owned by JBL and which JBL exclusively licenses to GLO SCIENCE as will be described in greater detail below.

NATURE OF THE ACTION

5. This is an Action for patent infringement arising under the patent laws of the United States including 35 U.S.C. §§ 271, 281, 283, 284, 285 and 289.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of this Action under 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Defendant because, upon information and belief, Defendant is doing business in this District, has committed acts of infringement in this District, and has caused harm or tortious injury in this District by its acts therein, as covered by New York's Long-Arm Statute, N.Y. Civ. Pract. L. R. § 302. In particular, Defendant is currently attending a dental convention occurring at the Jacob Javits Convention Center in Manhattan, including maintaining a booth at the convention. Attached as Exhibit 2 are images taken of Defendant's booth at the dental convention at which Defendant is offering for sale infringing products.

8. Venue properly lies in this District under 28 U.S.C. § 1391(a) and (c)(3) because, upon information and belief, Defendant is not resident in the United States and, as such, may be sued in any judicial district.

FACTUAL BACKGROUND

9. JBL is the owner of U.S. Patent No. D636,074 (the “‘074 patent”), issued April 12, 2011 from application Serial No. 29/363,728, filed June 14, 2010. The ‘074 patent remains in full force and effect. A copy of the ‘074 patent is attached as Exhibit 3.

10. GLO SCIENCE is the exclusive licensee of the ‘074 patent.

11. The ‘074 patent covers the ornamental appearance of a mouthpiece.

12. JBL is the owner of U.S. Patent No. D765,255 (the ‘255 patent), issued on August 30, 2016 from application Serial No. 29/492,179, filed on May 29, 2014. The ‘255 patent remains in full force and effect. A copy of the ‘255 patent is attached as Exhibit 4.

13. GLO SCIENCE is the exclusive licensee of the ‘255 patent.

14. The ‘255 patent covers the ornamental appearance of a mouthpiece.

15. Upon information and belief, Defendant has been and is actively selling and marketing tooth whitening systems including mouthpieces that infringe the ‘074 and the ‘255 patents. For example, upon information and belief, Defendant has consummated a sale of approximately 100,000 infringing mouthpieces to SmileDirectClub, LLC, a Tennessee corporation, which operates several retail outlets in Manhattan within the jurisdiction of this Court. Attached as Exhibit 5 shows marketing materials obtained from Defendant’s booth at the dental convention identified above which depicts an infringing mouthpiece (hereinafter, the “Infringing Products”). Attached as Exhibit 6 is an image of an Infringing Product taken from Defendant’s marketing materials.

16. Upon information and belief, Defendant sells, markets, offers for sale and sells mouthpieces under the trademark “GlorySmile” (see Exhibit 5) as well as by private labeling the Infringing Products. Such acts of infringement are occurring, upon information and belief, throughout the United States including in this judicial district.

17. Plaintiff actively manufactures, markets and distributes tooth whitening mouthpieces covered by JBL’s patents. Attached as Exhibit 7 is an image of Plaintiff’s mouthpiece covered by JBL’s patents. Upon information and belief, given the virtually identical appearance between Plaintiff’s mouthpiece and the Infringing Products, Defendant’s infringement is deliberate, willful, wanton, and intentional.

18. Defendant has caused and will continue to cause Plaintiff substantial damages and injury including Plaintiff’s loss of unique product positioning and lost profits due to lost sales of its systems including the patented mouthpieces by virtue of Defendant’s past and continuing infringement of the ‘074 and ‘255 patents.

19. Plaintiff will suffer further damage and injury unless and until Defendant is enjoined by this Court from continuing such infringement. The damage caused by Defendant is irreparable and cannot be adequately compensated for solely in monetary damages.

COUNT I

(Infringement of the ‘074 Patent by Defendant)

20. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-19.

21. Defendant has been and is now infringing the ‘074 patent by making, using, selling, offering for sale, and/or importing into the United States, including in this District, the Infringing Products.

22. Upon information and belief, and after a reasonable opportunity for further investigation or discovery, it is likely the evidence will show that Defendant's acts of infringement have been made with full knowledge of the '074 patent particularly since it issued over five years ago. Such acts constitute willful and deliberate infringement, entitling Plaintiff to enhanced damages and attorneys' fees.

23. As a consequence of Defendant's infringement, Plaintiff has been irreparably damaged, to an extent not yet determined, and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement.

24. Plaintiff is entitled to recover damages adequate to compensate for Defendant's infringement, which in no event can be less than a reasonable royalty, as well as for lost profits.

COUNT II

(Infringement of the '255 Patent by Defendant)

25. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-20.

26. Defendant has been and is now infringing the '255 patent by making, using, selling, offering for sale, and/or importing into the United States, including in this District, the Infringing Products.

27. Upon information and belief, and after a reasonable opportunity for further investigation or discovery, it is likely the evidence will show that Defendant's acts of infringement have been made with full knowledge of the '255 patent particularly since the mouthpiece covered by the '255 patent has been actively and extensively marketed by GLO SCIENCE as exclusive licensee of JBL. Such acts constitute willful and deliberate infringement, entitling Plaintiff to enhanced damages and attorneys' fees.

28. As a consequence of Defendant's infringement, Plaintiff has been irreparably damaged, to an extent not yet determined, and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement.

29. Plaintiff is entitled to recover damages adequate to compensate for Defendant's infringement, which in no event can be less than a reasonable royalty, as well as for lost profits.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

(A) That this Court enter Judgment that the '074 patent has been infringed by Defendant (35 USC § 271(a)) and that such infringement has been willful.

(B) That this Court enter Judgment that the '255 patent has been infringed by Defendant (35 USC § 271(a)) and that such infringement has been willful.

(C) That this Court issue an injunction, permanently enjoining Defendant and its officers, agents, subsidiaries, successors, employees, representatives, and assigns from further patent infringement (35 USC § 283).

(D) That this Court award damages to Plaintiff adequate to compensate Plaintiff for all acts of infringement by Defendant (35 USC § 284) including for lost profits (35 USC § 289).

(E) That this Court award damages in the amount of Defendant's total profits realized for the Infringing Products (35 U.S.C. § 289).

(F) That the damages awarded be increased up to three times as provided for in 35 U.S.C. § 284 concerning patent infringement.

(G) That Plaintiff be awarded their attorneys' fees under 35 U.S.C. § 285.

(H) That Plaintiff be granted pre-judgment interest pursuant to 35 U.S.C. § 284 and post-judgment interest pursuant to 28 U.S.C. § 1961 continuing thereafter until such judgment is paid, on the damages caused by reason of the acts of Defendant as set forth above.

(I) That Plaintiff be granted an award of increased damages in an amount not less than three times the amount of damages found by the jury or assessed by this Court, for Defendant's willful and wanton acts of infringement, pursuant to 35 U.S.C. § 284.

(J) That Plaintiff be awarded their costs and expenses in this action pursuant to 35 U.S.C. § 284.

(K) That the Court order Defendant to deliver to Plaintiff all infringing mouthpieces and their packaging as well as all mouthpiece and packaging molds, templates and proofs for destruction.

(L) That this Court grant Plaintiff such other and further relief as it may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

DATED this 28th day of November, 2017.

Respectfully submitted,

By:



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Attorneys for Plaintiff
GLO SCIENCE, INC.

EXHIBIT 1

Tasha Liu
Sales

NANCHANG DENTAL BRIGHT TECHNOLOGY CO., LTD.

Mobile: +86-17779110152

Skype: justin85437

E-mail: teethwhitening2008@aliyun.com

Add: Building 182, Nanchang Jiahai Industrial Park, No.2799
Tianxiang Blvd, Gaoxin Dist., Nanchang, Jiangxi Prov., China

EXHIBIT 2



EXHIBIT 3



US00D636074S

(12) **United States Design Patent**
Levine

(10) Patent No.: **US D636,074 S**
(45) Date of Patent: **** Apr. 12, 2011**

(54) **MOUTHPIECE**

(76) Inventor: **Jonathan B. Levine, Purchase, NY (US)**

(**) Term: **14 Years**

(21) Appl. No.: **29/363,728**

(22) Filed: **Jun. 14, 2010**

(51) LOC (9) Cl. **24-01**

(52) U.S. Cl. **D24/110.5; D29/108; D24/181**

(58) Field of Classification Search **D24/108-110.5,**
D24/112-114, 181; 128/200.14-200.23,
128/203.12-203.24; D29/108

See application file for complete search history.

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(Continued)

Primary Examiner — Ian Simmons

Assistant Examiner — Charles D Hanson

(74) Attorney, Agent, or Firm — Michael A. Adler; Davidoff
Malito & Hatcher, LLP

(57) **CLAIM**

The ornamental design for a mouthpiece, as shown and
described.

DESCRIPTION

FIG. 1 is a front, right perspective of a mouthpiece showing
my new invention;

FIG. 2 is a rear, left side perspective view thereof.

FIG. 3 is a front view thereof.

FIG. 4 is a top view thereof.

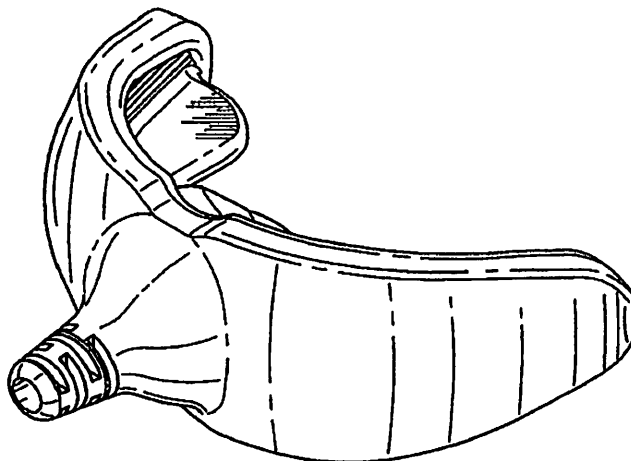
FIG. 5 is a right side view thereof, the left side view being a
mirror image.

FIG. 6 is a rear view thereof; and,

FIG. 7 is a bottom view thereof.

The broken lines form no part of the claimed design.

1 Claim, 3 Drawing Sheets



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FIG. 1

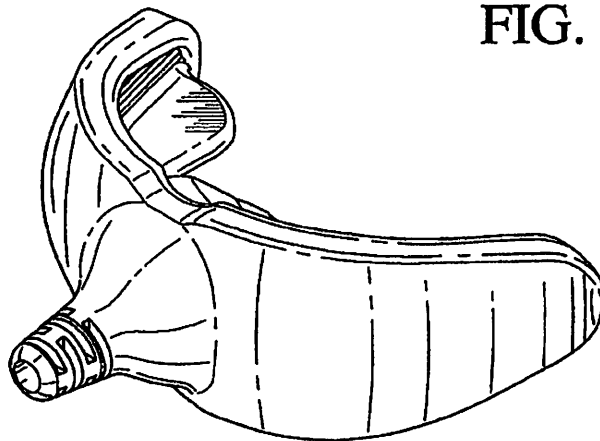


FIG. 2

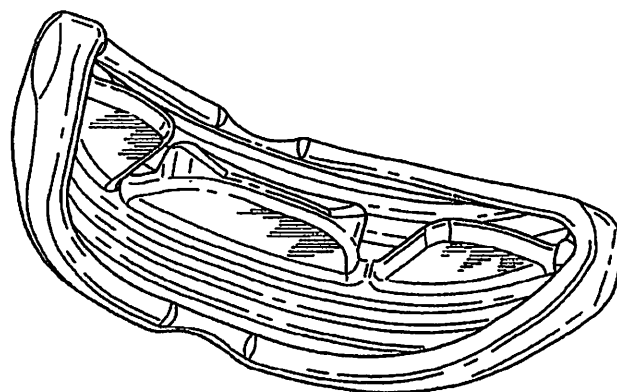
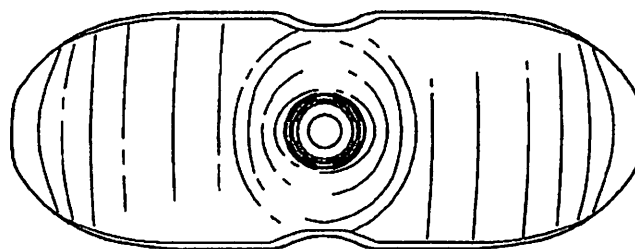


FIG. 3



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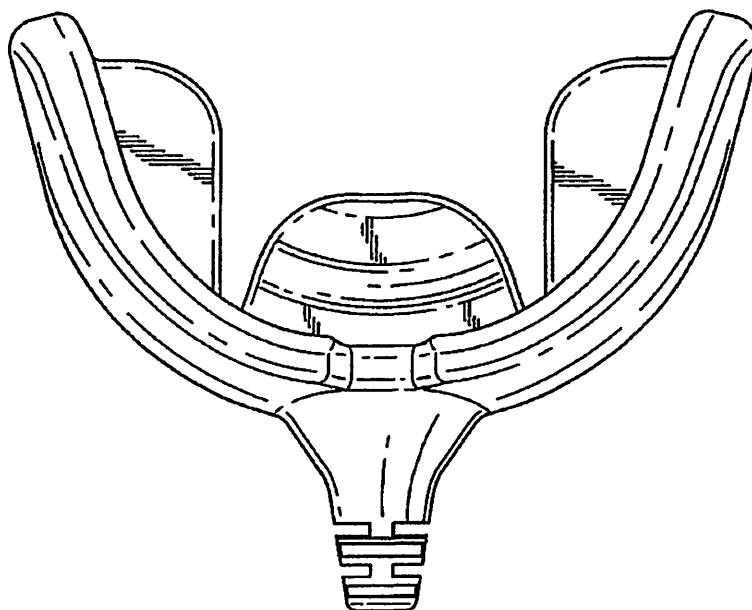


FIG. 4

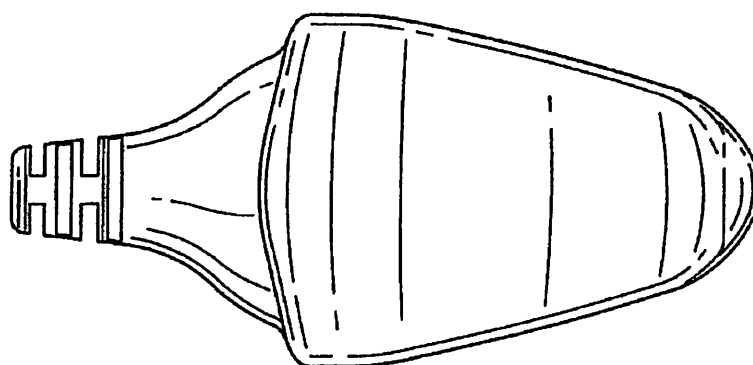


FIG. 5

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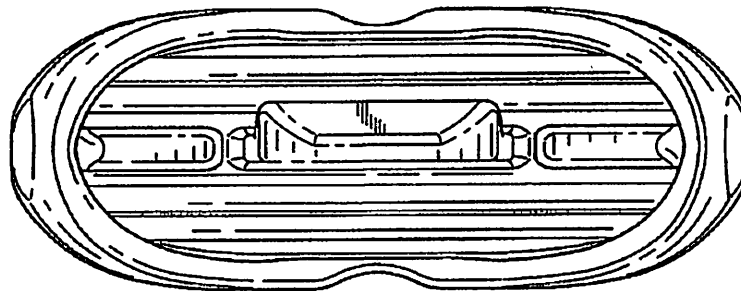


FIG. 6

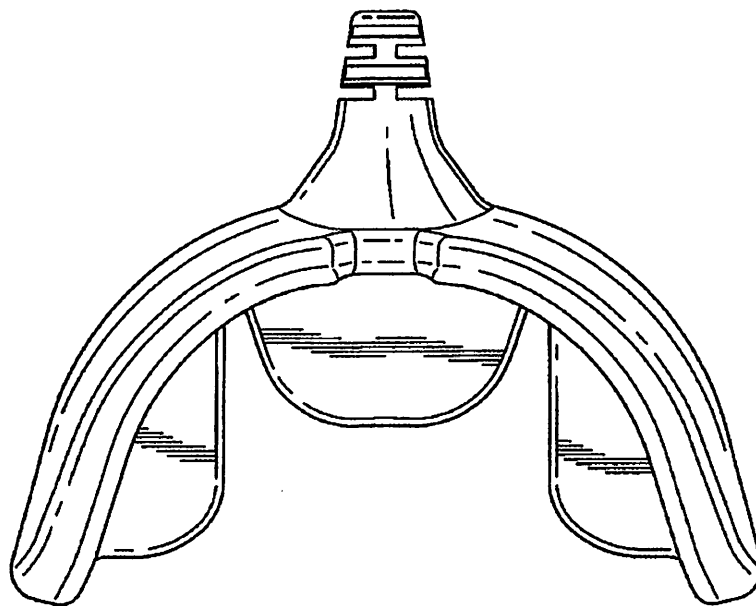


FIG. 7

EXHIBIT 4



US00D765255S

(12) **United States Design Patent** (10) Patent No.: **US D765,255 S**
Levine (45) Date of Patent: **** *Aug. 30, 2016**

(54) **MOUTHPIECE**(71) Applicant: **Jonathan B. Levine, Purchase, NY (US)**(72) Inventor: **Jonathan B. Levine, Purchase, NY (US)**(73) Assignee: **JBL Radical Innovations, LLC**

(*) Notice: This patent is subject to a terminal disclaimer.

(**) Term: **14 Years**(21) Appl. No.: **29/492,179**(22) Filed: **May 29, 2014**(51) LOC (10) Cl. **24-02**(52) U.S. Cl. **D24/181**

(58) Field of Classification Search

USPC **D24/180-182, 176; D29/108; 433/18-19, 140, 141, 168.1, 215; 128/848, 859, 861-862; 602/902**
 CPC **A61C 9/0006; A61C 13/20; A61C 7/36; A61C 7/08; A61C 7/00; A61C 7/06; A61C 17/0202; A61C 19/063; A61C 19/066; A61M 16/0488; A61F 5/566**

See application file for complete search history.

(56) **References Cited****U.S. PATENT DOCUMENTS**

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Primary Examiner — Wan Laymon

(74) Attorney, Agent, or Firm — H. Jay Spiegel

(57) **CLAIM**

The ornamental design for a mouthpiece, as shown and described.

DESCRIPTION

FIG. 1 is a perspective view of a mouthpiece showing my design;

FIG. 2 is a further perspective view thereof;

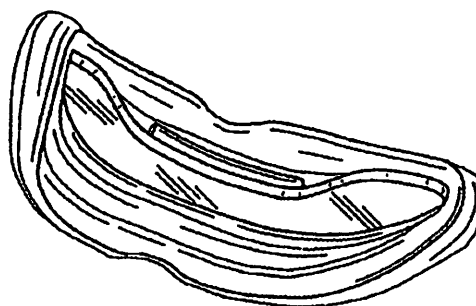
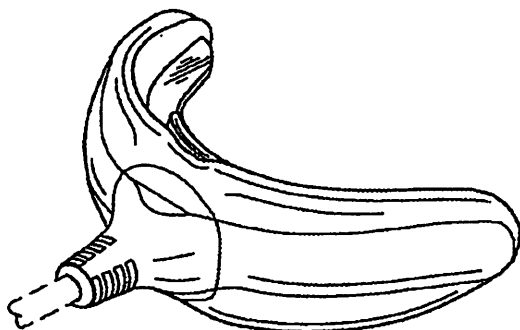
FIG. 3 is a yet further perspective view thereof;

FIG. 4 is a rear view thereof;

FIG. 5 is a top view thereof; and,

FIG. 6 is a bottom view thereof.

Portions of the mouthpiece in FIGS. 1-6 depicted in broken lines do not form a part of the claimed design.

1 Claim, 2 Drawing Sheets

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FIG. 1

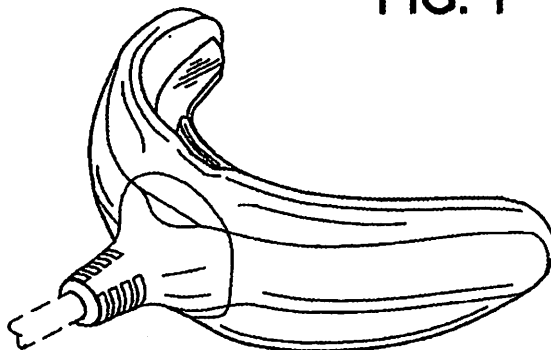


FIG. 2

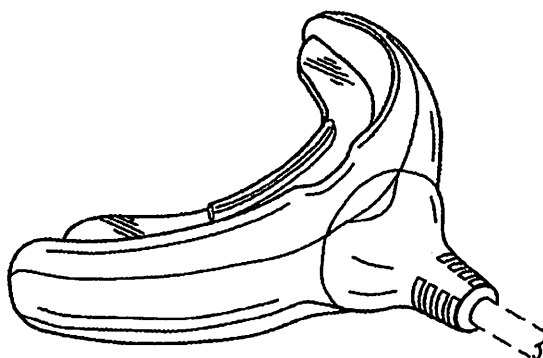
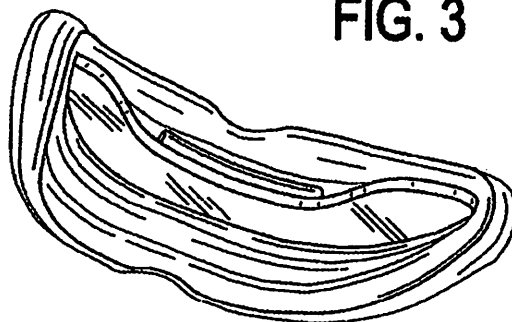


FIG. 3



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FIG. 4

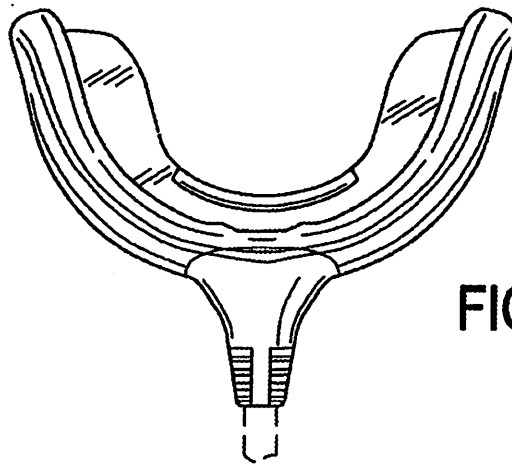
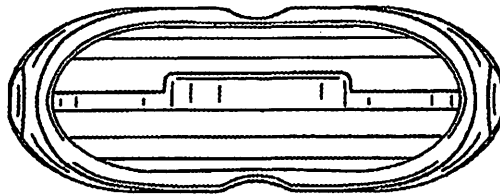


FIG. 5

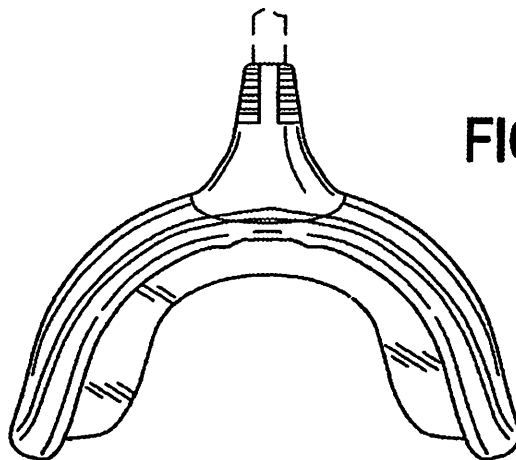


FIG. 6

EXHIBIT 5

Nanchang Dental Bright Technology Co., Ltd.

Luxury Teeth Whitening LED Light Kit

GlorySmile smart teeth whitening device adopts special cold light technology, combined with mouthpiece and high intensity cold light. Blue ray reacts with teeth whitening gel, which can remove the stains adhered on the teeth's surface.

Content:

- 3 x Whitening Gel
- 1 x Desensitization Gel
- 1 x LED Light
- 1 x Power Bank
- 10 x Teeth Wipe
- 1 x Shade Guide
- 1 x User Manual

Gel: Non Peroxide, 0.1-35%HP, 0.1-44%CP

LED Light: Mouth tray led light with iPhone/Android/USB and 3 in 1 Connections

Treatment: 16 minutes

Certification: CE, FDA, BPA Free, RoHS

Dimension: 250mm*200mm*50mm

Weight: 680g/box

Service: Pen, led light and box are available for Private label for OEM/ODM



MOQ → 1000

LT 1/15/unit.

- Private label

01

EXHIBIT 6

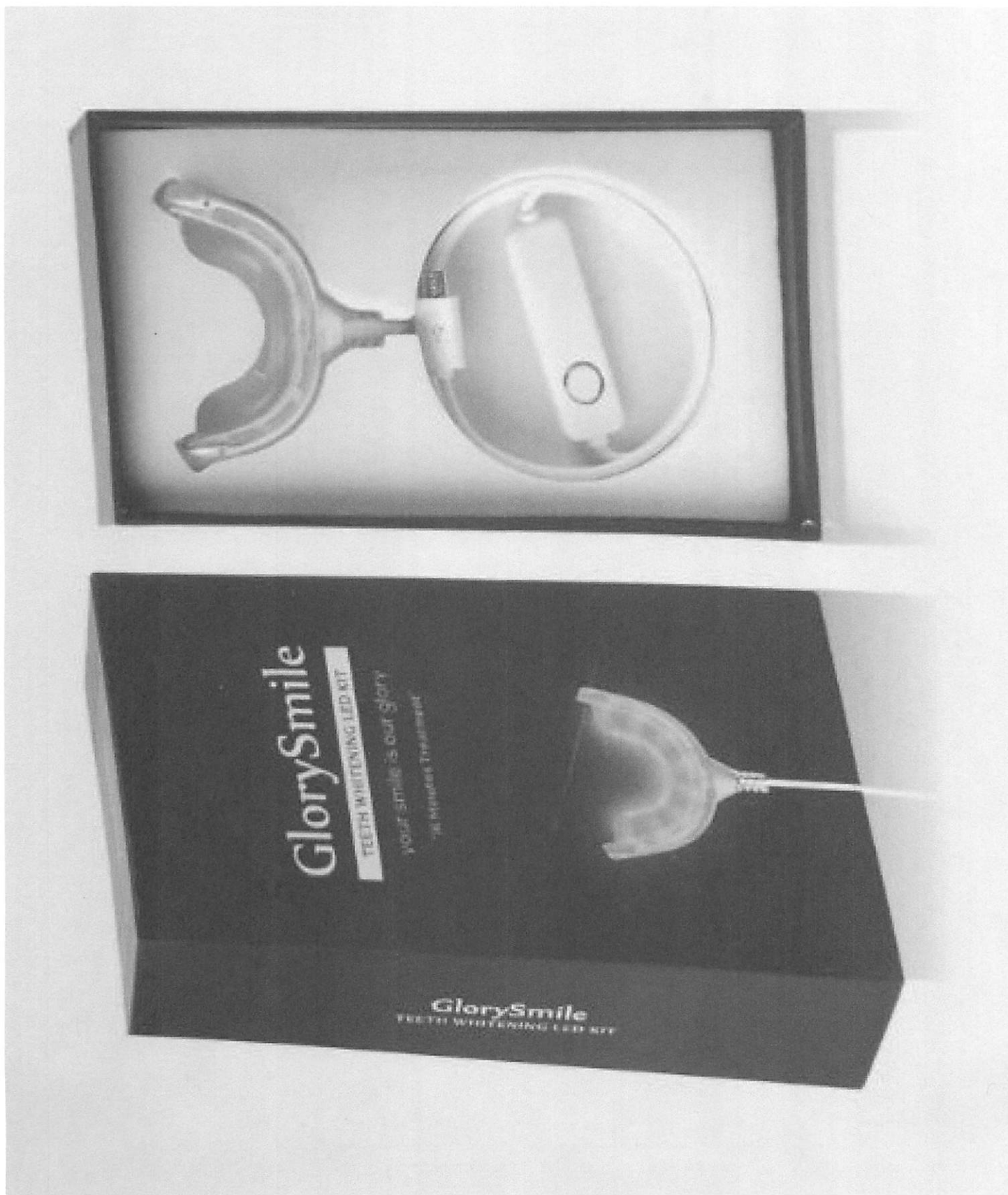


EXHIBIT 7

